



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0034; Notice 1]

Yamaha Motor Corporation, U.S.A., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Yamaha Motor Corporation, U.S.A., (Yamaha) has determined that certain model year (MY) 2019 Yamaha NIKEN motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 122, *Motorcycle Brake Systems*. Yamaha filed a noncompliance report dated February 26, 2020. Yamaha subsequently petitioned NHTSA on May 28, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Yamaha's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also

be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: Yamaha has determined that certain MY 2019 Yamaha NIKEN motorcycles do not fully comply with the requirements of paragraph S5.1.7 of FMVSS No. 122, *Motorcycle Brake Systems* (49 CFR 571.122). Yamaha filed a noncompliance report dated February 26, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Yamaha subsequently petitioned NHTSA on May 28, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Yamaha's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Motorcycles Involved: Approximately 278 MY 2019 Yamaha NIKEN motorcycles manufactured between August 1, 2018, and July 31, 2019, are potentially involved.

III. Noncompliance: Yamaha explains that the noncompliance is that the subject motorcycles do not comply with the requirement for class 3-5 motorcycle braking systems, as specified in paragraph S5.1.7 in FMVSS No. 122. Specifically, due to the motorcycles being classified as a

category 3-5 motorcycle rather than a 3-3 motorcycle, the motorcycles lack the required trike parking brake and integrated rear brake system.

IV. Rule Requirements: Paragraph S5.1.7 of FMVSS No. 122 includes the requirements relevant to this petition. Each category 3-5 motorcycle shall be equipped with: (a) a parking brake system; and (b) a foot actuated service brake system which operates the brakes on all wheels by way of either (1) a split service brake system; or (2) a combined brake system (CBS) and a secondary brake system, which may be the parking brake system.

V. Background: NHTSA contacted Yamaha on February 16, 2020 and informed the company that the agency's position is that the subject motorcycles did not meet the definition of a traditional two-wheeled motorcycle. While Yamaha maintained that the proximity of the two front wheels to each other indicated that the Niken was a two wheeled motorcycle, NHTSA classifies the product as a three wheeled trike, and as such, the Niken does not possess the required trike parking brake and integrated rear brake system.

VI. Summary of Yamaha's Petition: The following views and arguments presented in this section, VI. Summary of Yamaha's Petition, are the views and arguments provided by Yamaha. They have not been evaluated by the Agency and do not reflect the views of the Agency. Yamaha described the subject noncompliance and stated their belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Yamaha submitted the following reasoning:

1. NHTSA stated that their contract test laboratory was unable to complete compliance testing because the NIKEN lacked two "requirements": (1) parking brake and (2) foot brake actuating on all wheels. Yamaha independently conducted the relevant compliance testing and the test results demonstrate that the NIKEN substantially satisfies the "requirements" detailed below:

- a. Parking Brake: Requirements for a parking brake are presumably in place to keep a vehicle from unwanted movement while in a parked condition, such as on a slope. However, traditional two-wheeled and narrow-twin-front-wheeled motorcycles cannot stand unsupported; they simply fall over. Should a traditional motorcycle be parked on a slope (up-hill or down) on the side stand, it is a customary for the rider to park in-gear, locking the vehicle against movement. Likewise, by adapting this standard practice, the NIKEN can be parked on a slope (up-hill or down) on the side-stand just as a rider of a traditional two wheeled motorcycle would be. In an effort to emulate the test environment, the brake system was conditioned, and the engine was disconnected (placed in neutral) in accordance with paragraph S6.8; the NIKEN was placed on the test surface on the vehicle's main stand. According to requirements in FMVSS No. 122, the Laden vehicle shall be held stationary for 5 minutes, both in an up-hill and down-hill configuration at the required 18% (10.2°) gradient for 5 minutes. The NIKEN, exceeds this requirement.

Standard 18% (10.2°)	Up-Hill	Down-Hill
NIKEN on Main Stand	12.0°	11.8°

It should be noted that approximately 70% of NIKENs currently in use have main stands, the balance have only side stands. Yamaha genuine accessory Main Stands could be added to those without quite easily.

- b. Foot brake actuating on all wheels: Likewise, NHTSA testing staff was unable to complete the testing of braking performance of the “split or CBS”

system, as the NIKEN utilizes the conventional separate (independently controlled) front and rear braking system found on most similar sport-performance type motorcycles. When Yamaha tested the NIKEN's all-wheel, anti-lock brake system, Yamaha found that the brake system, in a laden condition, met NHTSA's single actuated brake control test. The NIKEN, in a laden condition, met the requirements with the rear brake alone and, likewise, when tested with the front brake alone, the NIKEN exceeded the standard test requirements and stopping distances. In the lightly loaded condition, the NIKEN exceeded the braking target by a mere 30 cm. However, when the user-induced front brake is combined with the NIKEN's rear brake system, typical of motorcycle rider brake application, this vehicle exceeds NHTSA requirements by considerable margin.

		MASS (kg)			TARGET (m)	RESULT (m)
		FRONT	REAR	TOTAL		
REAR	Lightly loaded	170.7	181.9	352.6	33.7	34.0
	Laden	171.1	289.8	460.9	33.7	31.0
FRONT	Laden	171.1	289.8	460.9	61.4	25.8

Results show that the NIKEN substantially meets the performance criteria for brake performance without the Split or CBS braking system, while providing riders the more active control and better brake feel they expect from a performance sport machine.

2. It is the belief of Yamaha that the information described above satisfies the intent of 49 CFR part 573 and that the operator can safely operate the vehicle. The NIKEN was designed to perform and react similarly to a traditional two-wheeled motorcycle primarily for experienced, enthusiast riders, and provides the safety features and performance that these riders expect from a motorcycle.

Yamaha concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject motorcycles that Yamaha no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motorcycles under their control after Yamaha notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

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Billing Code 4910-59-P

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